

Christopher E. Angelo [70007]
Joseph Di Monda [184640]
ANGELO & DI MONDA, LLP
1721 N. Sepulveda Blvd.
Manhattan Beach, California 90266-5014
Telephone: 310-939-0099
Fax: 310-939-0023

Attorneys for Defendants, Bun Bun Tran and Le Thi Nguyen

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

PROGRESSIVE WEST INSURANCE
COMPANY, an Ohio corporation,

Plaintiffs,

v.

BUN BUN TRAN, LEONEL ARRELLANO,
Defendants.

NO. 07- CV 1999 JAH (POR)

**BUN TRAN'S EXHIBITS TO MOTION
TO SET ASIDE DEFAULT OF LEONEL
ARRELLANO**

Time: 2:30 p.m.
Date: May 27, 2008
Ct. No.: 11
880 Front Street
San Diego, CA 92101

LIST OF EXHIBITS FOR MOTION TO SET ASIDE DEFAULT

1. Relevant pages of the October 3, 2007 Deposition Transcript of Leonel Arrellano.
pp. 001-005.
2. Chili's Restaurant's Requests For Admission (Set Two) Propounded upon Leonel
Arrellano.
pp. 006-012.
3. Leonel Arrellano's Responses to Chili's Restaurant's Requests for Admissions (Set
Two).
pp. 013-019.

April 10, 2008

ANGELO & DI MONDA, LLP

S/Signature

Joseph Di Monda
Attorneys for Defendant Bun Tran

EXHIBIT 1

000001

1
2 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
3 IN AND FOR THE COUNTY OF SAN DIEGO
4 CENTRAL DIVISION - HALL OF JUSTICE
5

6 BUN BUN TRAN, an individual,
7 by and through his Guardian
8 ad Litem, Le Thi Nguyen,
9 Plaintiff,

COPY

-vs-

CASE NUMBER 37200700065432

10 LEONEL ARRELLANO, et al.,
11 Defendants.
12 _____/

CU-PA-CTL

13
14 VOLUME I

15 DEPOSITION OF LEONEL ARELLANO
16

17 DATE: October 3, 2007

18 TIME: 9:45 a.m.

19 LOCATION: Sierra Conservation Center

5100 O'Byrnes Ferry Road

20 Jamestown, California
21

22 REPORTED BY: Carol Lehman

Certified Shorthand Reporter

23 License Number 3500
24
25

Renee Brush
& Associates
certified shorthand reporters

RENEE BRUSH & ASSOCIATES, 209.544.1551
P.O. Box 3243, Modesto, CA 95333
(1230 13th Street, Suite C)

002
Page 1

209.544.1551
fax 209.544.1643
www.reneebrush.com

1 restaurants?

2 MR. McLAUGHLIN: It has nothing to do with
3 this deposition. I am not under oath, we are not
4 going to have that discussion. And of course
5 questions that have to do with any statements that he
6 has made regarding the circumstances surrounding the
7 accident itself, of course would be relevant.

8 Q. (BY MR. ANGELO): Do you know as you sit
9 here today whether the law firm that's representing
10 you also represents on other cases the insurance
11 companies that insure Chili's restaurant?

12 MR. McLAUGHLIN: Objection, don't answer the
13 question.

14 MR. ANGELO: We got an answer, what was the
15 answer?

16 MR. McLAUGHLIN: Counsel, I am instructing
17 my client not to answer that question for the same
18 reasons stated earlier, and if you persist in using
19 the deposition and wasting all of the our people's
20 time here with that line of inquiry, I'm going to
21 instruct him not to answer any further questions that
22 you ask him for any -- why don't we get back to the
23 circumstances surrounding the accident and issues that
24 are involved in this case.

25 MS. CRENSHAW: I'll join.

1 MR. ANGELO: The answer that he gave to my
2 question was "si", am I right?

3 THE INTERPRETER: Yes.

4 MR. ANGELO: So his answer was "yes" to my
5 question?

6 THE INTERPRETER: Yes.

7 MR. ANGELO: Will you please indicate then
8 on the record that his answer was "yes" to my
9 question?

10 MR. McLAUGHLIN: She is going to take down
11 necessarily what you're saying on the record or it's
12 all --

13 MR. ANGELO: I just want the one and only
14 word answer was what to my question?

15 THE INTERPRETER: Was "yes."

16 MR. McLAUGHLIN: The record should reflect
17 that the answer was given spontaneously before I had
18 the chance to interject my objection and my
19 instruction not to answer.

20 Q. (BY MR. ANGELO): Are you married?

21 A. No.

22 Q. Have you ever been married?

23 A. No.

24 MR. ANGELO: No further questions. Thank
25 you very much.

1 STATE OF CALIFORNIA)


2 ss.)

3 COUNTY OF TUOLUMNE)

4
5
6 I, CAROL LEHMAN, a Certified Shorthand Reporter in and
7 for the State of California, hereby certify that the
8 witness in the foregoing deposition,

9
10 LEONEL ARELLANO,

11
12 was by me duly sworn to tell the truth, the whole
13 truth and nothing but the truth in the within-entitled
14 cause, and that the foregoing is a full, true and
15 correct transcript of the proceedings had at the
16 taking of said deposition, reported to the best of my
17 ability and transcribed under my direction.

18
19
20
21 Date: October 15, 2007 

22 CSR Number 3500
23
24
25

128

EXHIBIT 2

006

1 Kimberly S. Oberrecht [C.S.B. No. 190794]

Emily D. Wallace [C.S.B. No. 234427]

2 Erin E. Schroeder [C.S.B. No. 247064]

HORTON, OBERRECHT, KIRKPATRICK & MARTHA

3 225 Broadway, Suite 2200

San Diego, California 92101

4 (619) 232-1183; Fax (619) 696-5719

5
6 Attorneys for Defendant BRINKER RESTAURANT CORPORATION, a Delaware Corporation
7 dba CHILI'S GRILL & BAR (erroneously sued herein as BRINKER INTERNATIONAL, INC.
8 dba CHILI'S RESTAURANT INC., a Delaware corporation)

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **IN AND FOR THE COUNTY OF SAN DIEGO**

10 BUN BUN TRAN, an individual, by and through)
11 his Guardian ad Litem, Le Thi Nguyen,)

12 Plaintiff,)

13 vs.)

14 LEONEL ARRELLANO, an individual; BRINKER)
15 INTERNATIONAL, INC. dba CHILI'S)
16 RESTAURANT INC., a Delaware corporation;)
17 PATRICIA L. COLE, an individual; CITY OF)
18 SAN DIEGO, a governmental entity; and DOES 1)
19 through 50, inclusive,)

20 Defendants.)

21 AND ALL RELATED MATTERS.)

CASE NO.

37-2007-00065432-CU-PA-CTL

**REQUESTS FOR ADMISSIONS
(SET TWO)**

22 PROPOUNDING PARTY : Defendant, BRINKER RESTAURANT CORPORATION, a
23 Delaware Corporation dba CHILI'S GRILL & BAR

24 RESPONDING PARTY : Defendant, LEONEL ARRELLANO

25 SET NUMBER : TWO (2)

26 Defendant, BRINKER RESTAURANT CORPORATION, a Delaware Corporation dba
27 CHILI'S GRILL & BAR requests that Co- Defendant, LEONEL ARRELLANO, admit within thirty
28 days after service of this Request for Admissions that each of the following facts is true:

///

///

REQUESTS FOR ADMISSIONS (SET TWO)

DEFINITIONS

1. CHILI'S GRILL & BAR refers to the Chili's restaurant located at 4252 Camino Del Rio North, San Diego, California 92108.

REQUESTS FOR ADMISSIONS

REQUEST FOR ADMISSIONS 8:

Admit that you have never been involved in a joint venture with CHILI'S GRILL & BAR to recruit illegal aliens to work in their restaurants.

REQUEST FOR ADMISSIONS 9

Admit that you have never been involved in a joint venture with CHILI'S GRILL & BAR to develop illegal aliens to work in their restaurants.

REQUEST FOR ADMISSIONS 10:

Admit that on November 17, 2006, you were not driving a vehicle to develop illegal aliens to work at Chili's Restaurants.

REQUEST FOR ADMISSIONS 11:

Admit that on November 18, 2006, you were not driving a vehicle to develop illegal aliens to work at Chili's Restaurants.

REQUEST FOR ADMISSIONS 12:

Admit that on November 17, 2006, you were not driving a vehicle to recruit illegal aliens to work at Chili's Restaurants.

REQUEST FOR ADMISSIONS 13:

Admit that on November 18, 2006, you were not driving a vehicle to recruit illegal aliens to work at Chili's Restaurants.

REQUEST FOR ADMISSIONS 14:

Admit that on November 17, 2006, you were not driving a vehicle in connection with a joint venture between you and CHILI'S GRILL & BAR to recruit illegal aliens to work in their restaurants.

REQUEST FOR ADMISSIONS 15:

Admit that on November 18, 2006, you were not driving a vehicle in connection with a joint

REQUESTS FOR ADMISSIONS (SET TWO)

1 venture between you and CHILI'S GRILL & BAR to recruit illegal aliens to work in their
2 restaurants.

3 **REQUEST FOR ADMISSIONS 16:**

4 Admit that you have never driven a vehicle in connection with a joint venture between you
5 and CHILI'S GRILL & BAR to recruit illegal aliens to work in their restaurants.

6 **REQUEST FOR ADMISSIONS 17:**

7 Admit that your supervisors at CHILI'S GRILL & BAR never permitted you to consume
8 alcohol at CHILI'S GRILL & BAR while working.

9 **REQUEST FOR ADMISSIONS 18:**

10 Admit that your supervisors at CHILI'S GRILL & BAR never permitted you to consume
11 alcohol in the parking lot of CHILI'S GRILL & BAR.

12 **REQUEST FOR ADMISSIONS 19:**

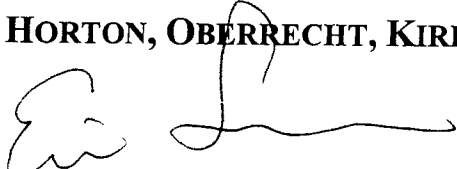
13 Admit that as a cook for CHILI'S GRILL & BAR your duties did not include the recruitment
14 of employees.

15 **REQUEST FOR ADMISSIONS 20:**

16 Admit that at the time of the accident which is the subject of this litigation, you were not
17 acting as an employee for CHILI'S GRILL & BAR.

18
19 Dated: March 21, 2008

HORTON, OBERRECHT, KIRKPATRICK & MARTHA

20
21 
22 _____
23 Kimberly S. Oberrecht,
24 Emily D. Wallace,
25 Erin E. Schroeder,
26 Attorneys for Defendant BRINKER RESTAURANT
27 CORPORATION, a Delaware Corporation dba CHILI'S GRILL &
28 BAR (erroneously sued herein as BRINKER INTERNATIONAL,
INC. dba CHILI'S RESTAURANT INC., a Delaware corporation)

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

Title of Case:

CASE NO:

37-2007-00065432-CU-PA-CTL

BUN BUN TRAN, AN INDIVIDUAL, BY AND
THROUGH HIS GUARDIAN AD LITEM, LE
THI NGUYEN v. LEONEL ARRELLANO, ET
AL.

HORTON, OBERRECHT, KIRKPATRICK
& MARTHA

225 Broadway, Suite 2200
 San Diego, CA 92101
 (619) 232-1183; Fax 696-5719

Attorneys for Defendant/Cross-Complainant
 BRINKER RESTAURANT CORPORATION, a
 Delaware Corporation dba CHILI'S GRILL &
 BAR (erroneously sued herein as BRINKER
 INTERNATIONAL, INC. dba CHILI'S
 RESTAURANT INC., a Delaware corporation)

DECLARATION OF SERVICE VIA FACSIMILE & U.S. MAIL

I am employed in the County of San Diego, State of California. I am readily familiar with the business practices of this office for collection and processing of correspondence for mailing with the United States Postal Service. I am over the age of eighteen years and am not a party to the within entitled action; my business address is 225 Broadway, Suite 2200, San Diego, California 92101.

On **March 21, 2008**, served the following documents *VIA FACSIMILE & U.S. MAIL*:

REQUESTS FOR ADMISSIONS (SET TWO); PROPOUNDED TO LEONEL ARRELLANO

by placing a copy thereof in a separate envelope for each addressee named hereafter for collection and mailing on the above-indicated day pursuant to the ordinary course of business practice of this office which is that correspondence for mailing is collected and deposited with the United States Postal Service on the same day in the ordinary course of business addressed to each such addressee respectively as follows:

James O. McLaughlin, Esq.
 WINET, PATRICK & WEAVER
 401 West A Street, Suite 1400
 San Diego, CA 92101
 (619) 702-3902; (619) 702-5432 Fax
 Attorney for **LEONEL ARRELLANO**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **March 21, 2008**.

Tara L. Frank

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

2 Title of Case:) **CASE NO:**
3) **37-2007-00065432-CU-PA-CTL**

4 BUN BUN TRAN, AN INDIVIDUAL, BY AND
5 THROUGH HIS GUARDIAN AD LITEM, LE
6 THI NGUYEN v. LEONEL ARRELLANO, ET
7 AL.

8 **HORTON, OBERRECHT, KIRKPATRICK**
9 **& MARTHA**

10 225 Broadway, Suite 2200
11 San Diego, CA 92101
12 (619) 232-1183; Fax 696-5719

13 Attorneys for Defendant/Cross-Complainant
14 BRINKER RESTAURANT CORPORATION, a)
15 Delaware Corporation dba CHILI'S GRILL &)
16 BAR (erroneously sued herein as BRINKER)
17 INTERNATIONAL, INC. dba CHILI'S)
18 RESTAURANT INC., a Delaware corporation))

19 **DECLARATION OF SERVICE**

20 I am employed in the County of San Diego, State of California. I am readily familiar with
21 the business practices of this office for collection and processing of correspondence for mailing with
22 the United States Postal Service. I am over the age of eighteen years and am not a party to the within
23 entitled action; my business address is 225 Broadway, Suite 2200, San Diego, California 92101.

24 On **March 21, 2008**, served the following documents:

25 **REQUESTS FOR ADMISSIONS (SET TWO); PROPOUNDED TO LEONEL ARRELLANO**

26 by placing a copy thereof in a separate envelope for each addressee named hereafter for collection
27 and mailing on the above-indicated day pursuant to the ordinary course of business practice of this
28 office which is that correspondence for mailing is collected and deposited with the United States
Postal Service on the same day in the ordinary course of business addressed to each such addressee
respectively as follows:

SEE LIST OF COUNSEL ON FOLLOWING PAGE

I declare under penalty of perjury under the laws of the State of California that the foregoing is true
and correct. Executed on **March 21, 2008**.

Tara L. Frank

oil

1 Christopher E. Angelo, Esq.
2 Joseph Di Monda, Esq.
3 ANGELO & DI MONDA, LLP
4 1721 N. Sepulveda Blvd.
5 Manhattan Beach, CA 90266-5014
6 (310) 939-0099; (310) 939-0023 Fax
7 *Attorneys for Plaintiff BUN BUN TRAN*

Andrew Jones, Esq.
Deputy City Attorney
Office of the City Attorney
1200 Third Avenue, Suite 1100
San Diego, CA 92101
(619) 533-5800; (619) 533-5856 Fax
Attorneys for CITY OF SAN DIEGO

6 Kevin D. Smith, Esq.
7 WOOD, SMITH, HENNING & BERMAN,
8 LLP
9 505 North Brand Boulevard, Suite 1100
10 Glendale, CA 91203
11 (818) 551-6000; (818) 551-6050 Fax
12 *Co-Counsel for Defendant CITY OF SAN*
13 *DIEGO*

Eugene F. West
WEST & MIYAMOTO
5151 Verdugo Way, Suite 203
Camarillo, CA 93012
(805) 388-5887; (805) 384-1518
efwest@msn.com
Attorneys for PATRICIA COLE

EXHIBIT 3

JAMES O. MCLAUGHLIN, STATE BAR NO. 97725
WINET, PATRICK & WEAVER
401 WEST A STREET, SUITE 1400
SAN DIEGO, CALIFORNIA 92101
TELEPHONE: (619) 702-3902

Attorneys for Defendant, Leonel Arrellano

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, CENTRAL DIVISION

BUN BUN TRAN, an individual, by and
through his Guardian ad Litem, Le Thi Nguyen,

Plaintiff,

vs.

LEONEL ARRELLANO, an individual;
BRINKER INTERNATIONAL, INC., dba
CHILI'S RESTAURANT, INC., a Delaware
corporation; PATRICIA L. COLE, an
individual, CITY OF SAN DIEGO, a
governmental entity; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO. 37-2007-00065432-CU-PA-CTL
(Unlimited Civil)

ACTION DATE: 04/24/07

I/C JUDGE: Hon. Ronald L. Styn
Dept. C-82

**RESPONSE TO REQUEST FOR
ADMISSIONS (SET TWO)**

**REQUESTING PARTY: PLAINTIFF, DEFENDANT BRINKER RESTAURANT
CORPORATION, a Delaware Corporation dba CHILI'S
GRILL & BAR**

RESPONDING PARTY: DEFENDANT, LEONEL ARRELLANO

SET NO. : TWO

TO: DEFENDANTS AND TO THEIR ATTORNEYS OF RECORD:

These responses are made solely for the purpose of and in relation to this action. Each
answer is given subject to all appropriate objections (including but not limited to objections
covering competency, relevancy, materiality, propriety and admissibility) which would require the

1 exclusion of any statement contained herein if it was made by a witness present and testifying in
2 court. All such objections and grounds therefore are reserved and may be interpreted at the time of
3 trial.

4 The party on whose behalf the answers and responses are given has not yet completed its
5 investigation of the facts relating to this action, has not completed its discovery in this action, and
6 has not yet completed its preparation for trial. Consequently, the following answers are given
7 without prejudice to the answering party's right to produce at the time of trial subsequently
8 discovered evidence, relating to the proof of facts subsequently discovered to be material.

9 **RESPONSES TO ADMISSIONS**

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 8:**

11 Admit.

12 **RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

13 Admit.

14 **RESPONSE TO REQUEST FOR ADMISSION NO. 10:**

15 Admit.

16 **RESPONSE TO REQUEST FOR ADMISSION NO. 11:**

17 Admit.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 12:**

19 Admit.

20 **RESPONSE TO REQUEST FOR ADMISSION NO. 13:**

21 Admit.

22 **RESPONSE TO REQUEST FOR ADMISSION NO. 14:**

23 Admit.

24 **RESPONSE TO REQUEST FOR ADMISSION NO. 15:**

25 Admit.

26 **RESPONSE TO REQUEST FOR ADMISSION NO. 16:**

27 Admit.
28

1 RESPONSE TO REQUEST FOR ADMISSION NO. 17:

2 Admit.

3 RESPONSE TO REQUEST FOR ADMISSION NO. 18:

4 Admit.

5 RESPONSE TO REQUEST FOR ADMISSION NO. 19:

6 Admit.

7 RESPONSE TO REQUEST FOR ADMISSION NO. 20:

8 Admit.

9
10 Dated: April 2, 2008

WINET, PATRICK & WEAVER

11
12 By: 

JAMES O. MCLAUGHLIN
Attorneys for Defendant,
Leonel Arrellano

Apr 03 2008 1:32PM

Winet Patrick & Weaver

6197025432

P.2

Tran v. Arrellano (P21084)
San Diego Superior Court, Central Judicial District, Case No.37-2007-00065432 CU-PA-CTL

VERIFICATION

I, Leonel Arrellano, have read the foregoing RESPONSES TO REQUESTS FOR
ADMISSIONS (SET TWO) and know its contents.

I am a party to this action. The matters stated in it are true of my own knowledge, except
as to those matters which are stated on information and belief, and as to those matters I believe
them to be true.

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

Executed at Sierra Conservation, California on 03/04, 2008.
Center


LEONEL ARRELLANO

Name of Case: *Tran v. Arrellano (P21084)*
Superior Court Case No. 37-2007-00065432-CU-PA-CTL / Department 82

PROOF OF SERVICE

I, Jackie Forjais, declare as follows:

I am over the age of eighteen years and not a party to the case. I am employed in the County of San Diego, California, where the mailing occurs; and my business address is 401 West A Street, Suite 1400, San Diego, California 92101.

On April 3, 2008, I served the foregoing document(s) described as:

1) RESPONSE TO REQUEST FOR ADMISSIONS (SET TWO) and VERIFICATION

On the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

PLEASE SEE ATTACHED SERVICE LIST

(XX) BY MAIL. I am readily familiar with the firm's practice of collection and processing of correspondence for mailing with the United States Postal Service, and that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business pursuant to Code of Civil Procedure §1013a.

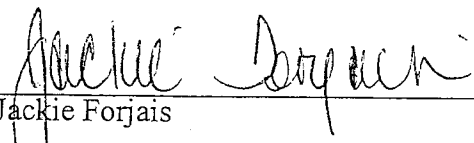
() BY FAX. In addition to service by mail as set forth above, a copy of said document(s) were also delivered by facsimile transmission to the addressee pursuant to Code of Civil Procedure §1013(e).

() BY PERSONAL SERVICE. I hand-delivered said document(s) to the addressee pursuant to Code of Civil Procedure §1011.

() BY EXPRESS MAIL. I caused said document(s) to be deposited in a box or other facility regularly maintained by the express service carrier providing overnight delivery pursuant to Code of Civil Procedure §1013(c)

Executed April 3, 2008, at San Diego, California.

I declare under the penalty of perjury under the laws of the State of California that the above is true and correct.


Jackie Forjais

Name of Case: *Tran v. Arrellano (P21084)*
Superior Court Case No. 37-2007-00065432-CU-PA-CTL / Department 82

SERVICE LIST:

Chris Angelo
Angelo & Di Monda
1721 N. Sepulveda Boulevard
Manhattan Beach CA 90266-5014
Telephone (310) 939-0099
Facsimile (310) 939-0023
Attorneys for Plaintiff

Andrew Jones
Deputy City Attorney
Office of the City Attorney
1200 Third Avenue, Suite 1100
San Diego CA 92101-4100
Telephone (619) 533-5800
Facsimile (619) 533-5856
Attorneys for City of San Diego

Kimberly S. Oberrecht
Horton, Oberrecht, Kirkpatrick & Martha
225 Broadway Ste 2200
San Diego, CA 92101
Telephone: (619) 232-1183
Facsimile (619) 696-5719
Attorneys for Chili's Grill & Bar

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA

3 COUNTY OF LOS ANGELES

4 I am a resident of the aforesaid county. I am over the age of eighteen years and not a party
5 to the within action; my address is 1721 N. Sepulveda Blvd., Manhattan Beach, California 90266.

6 On April 10, 2008, I served the foregoing document(s) described as **BUN TRAN'S**
7 **EXHIBITS TO MOTION TO SET ASIDE DEFAULT OF LEONEL ARRELLANO** on the
interested parties in this action, by placing the original/true copies thereof enclosed in a sealed
envelope addressed as follows:

8 **SEE ATTACHED SERVICE LIST**

9 — I caused such envelope/package containing the document(s) to be delivered by hand to the
offices of the addressee(s).

10 X The envelope was mailed with postage thereon fully prepaid. I am "readily" familiar with the
11 firm's practice of collection and processing correspondence for mailing. It is deposited with
U.S. Postal Service on that same day in the ordinary course of business. I am aware that on
12 motion of a party served, service is presumed invalid if the postal cancellation date or
postage meter date is more than one day after date of deposit for mailing an affidavit.

13 — I deposited the above document(s) for facsimile transmission in accordance with the office
14 practice of Angelo & Di Monda for collecting and processing facsimiles. I am familiar with
the office practice of Angelo & Di Monda for collecting, processing, and transmitting
15 facsimiles. The facsimile of the above document(s) was transmitted to the interested parties
on the attached service list:

16 Executed on **April 10, 2008**, at Manhattan Beach, California.

17 I declare under penalty of perjury under the laws of the State of California that the above is
18 true and correct.

19
20 S/Signature
21 Joseph Di Monda
22
23
24
25
26
27
28

Service List

James R. Robie
ROBIE & MATTHAI
500 South Grand Avenue
15th Floor
Los Angeles, CA 90071